

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
OFFICE OF THE CLERK

03-73594

REPLY TO:

- ☐ B-35 FEDERAL BUILDING  
410 W. MICHIGAN AVENUE  
KALAMAZOO, MI 49007  
269-337-5706
- ☐ P.O. BOX 698  
229 FEDERAL BUILDING  
MARQUETTE, MI 49855  
906-226-2021



REPLY TO:

- ☐ 399 FEDERAL BUILDING  
110 MICHIGAN STREET, NW  
GRAND RAPIDS, MI 49503  
616-456-2381
- ☐ 113 FEDERAL BUILDING  
315 W. ALLEGAN  
LANSING, MI 48933  
517-377-1559

September 8, 2003

PATRICK J. DUGGAN

USDC, Eastern District  
Theodore Levin US Courthouse  
231 W. Lafayette Blvd.  
Detroit, MI 48226

MAGISTRATE JUDGE MORGAN

RE: Phillips v Duggan  
Our Case No. 5:03-cv-124 Hon. Gordon J. Quist

Dear Court Personnel:

Pursuant to the enclosed Order of Transfer to the Eastern District of Michigan filed 9/8/03, we are herewith sending the following:

1. Certified copy of Order of Transfer;
2. Certified copy of our docket sheet; and
3. Entire file of the above referenced case.

By copy of this letter, **please acknowledge receipt** of these documents and return to this court in the enclosed self-addressed envelope. Thank you.

Sincerely,

Ronald C. Weston, Sr., Clerk

A handwritten signature in cursive script, appearing to read "S. C. Apple".

By: Deputy Clerk

Enclosures

cc: All counsel  
File

FILED  
2003 SEP 18 3 53  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
DETROIT

**CASEREFERRED**

**United States District Court  
Western District of Michigan (Lansing)  
CIVIL DOCKET FOR CASE #: 5:03-cv-00124-GJQ-HWB**

Phillips v. Duggan

Assigned to: Judge Gordon J. Quist

Referred to: Magistrate Judge Hugh W. Brenneman Jr.

Demand: \$

Lead Docket: None

Related Cases: None

Case in other court: None

Cause: 42:1983 Prisoner Civil Rights

Date Filed: 08/28/03

Jury Demand: None

Nature of Suit: 550 Prisoner: Civil Rights

Jurisdiction: Federal Question

**PATRICK J. DUGGAN  
MAGISTRATE JUDGE MORGAN**

**plaintiff**  
-----**Chauncey Phillips**

represented by **Chauncey Phillips**  
Wayne County Jail  
570 Clinton St.  
Detroit, MI 48226  
PRO SE

V.

**defendant**  
-----

**Mike Duggan, Wayne County  
Prosecutor for Det. Mich. (named as  
Mike Duggn on complaint)**

CERTIFIED  
ECF DOCUMENT

I hereby attest and certify that this is a printed copy of a document  
which was electronically filed with the United States District Court  
for the Western District of Michigan on 9-8-03

RONALD C. WESTON, SR., CLERK OF COURT

By: E. Cypel Dated: 9-8-03  
Deputy Clerk

Filing Date	#	Docket Text
08/28/2003	<u>1</u>	COMPLAINT with magistrate referral against Mike Duggan filed by Chauncey Phillips (lkd) Modified on 9/3/2003 (lkd). (Entered: 09/02/2003)
08/28/2003	<u>2</u>	MOTION for leave to proceed in forma pauperis by plaintiff Chauncey Phillips ; (lkd, ) (Entered: 09/03/2003)

03-73594

FORM TO BE USED BY A PRISONER IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

In the United States District Court  
For the Western District of Michigan

Chauncey Phillips

(Enter above the full names of all plaintiffs, including prisoner number, in this action.)

v. Mike Duggan, Wayne County  
Prosecutor For Det. Mich.

(Enter above the full name of the defendant or defendants in this action.)

Instructions for Filing a Complaint by a Prisoner  
Under the Civil Rights Act, 42 U.S.C. § 1983

This packet includes three copies of a complaint form. To start an action, you must file an original complaint and one copy for the court. You should also keep an additional copy of the complaint for your own records. All copies of the complaint must be identical to the original. If the court determines that the complaint should be served on one or more defendants, the court will specifically order you to provide further copies for this purpose. Until ordered to do so, do not submit to the court copies of the complaint or exhibits for purposes of service on defendants. The clerk of the court will not file your complaint unless it conforms to these instructions and to these forms.

In order for this complaint to be filed, it must be accompanied by the filing fee of \$150.00. In addition, the United States Marshal will require you to pay the cost of serving the complaint on each of the defendants.

If you are unable to prepay the filing fee and service costs for this action, you must petition the court to proceed *in forma pauperis* by completing and signing the attached affidavit in support of application. You must also have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution. If the court grants you leave to proceed *in forma pauperis*, you will still be required to pay the \$150.00 filing fee through an initial partial filing fee and through monthly installments.

Your complaint must be legibly handwritten or typewritten. You, the plaintiff(s), must sign and date the complaint on the last page. If you need additional space to completely answer a question, you must attach additional pages.

Your complaint can be brought in this court only if one or more of the named defendants is located within this district. Further, you must file a separate complaint for each claim that you have unless they are all related to the same incident or issue.

You are required to furnish, so that the United States Marshal can complete service, the correct name and address of each person you have named as defendant. A PLAINTIFF IS REQUIRED TO GIVE INFORMATION TO THE UNITED STATES MARSHAL TO ENABLE THE MARSHAL TO COMPLETE SERVICE OF THE COMPLAINT UPON ALL PERSONS NAMED AS DEFENDANTS.

You will note that you are required to give facts. THIS COMPLAINT SHOULD NOT CONTAIN LEGAL ARGUMENTS OR CITATIONS.

When these forms are completed, mail the original and copies to the Clerk of the United States District Court for the Western District of Michigan at any of the addresses below:

U.S. District Court  
399 Federal Building  
110 Michigan St., NW  
Grand Rapids, MI 49503

U.S. District Court  
229 Federal Building  
P.O. Box 698  
Marquette, MI 49855

U.S. District Court  
B-35 Federal Building  
410 W. Michigan Ave.  
Kalamazoo, MI 49007

U.S. District Court  
113 Federal Building  
315 W. Allegan  
Lansing, MI 48933

(Last Revised: May 2003)

SCANNED

## COMPLAINT

## I. Previous Lawsuits

**CAUTION:** The Prison Litigation Reform Act has resulted in substantial changes in the ability of incarcerated individuals to initiate lawsuits in this and other federal courts without prepayment of the required \$150 filing fee. Accurate and complete responses are required concerning your litigation history. Generally, a plaintiff's failure to accurately and completely answer the questions set forth below will result in denial of the privilege of proceeding *in forma pauperis* and require you to pay the entire \$150 filing fee regardless whether your complaint is dismissed.

- A. Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility? Yes ☐ No ☐
- B. If your answer to question A was yes, for each lawsuit you have filed you must answer question 1 through 5 below. Attach additional sheets as necessary to answer questions 1 through 5 below with regard to each lawsuit.
1. Identify the court in which the lawsuit was filed. If it was a state court, identify the county in which the suit was filed. If the lawsuit was filed in federal court, identify the district within which the lawsuit was filed.  
\_\_\_\_\_
  2. Is the action still pending? Yes ☐ No ☐
    - a. If your answer was no, state precisely how the action was resolved: Judge Exoneration  
WAS NO CASE OF ACTION.
  3. Did you appeal the decision? Yes ☐ No ☐
  4. Is the appeal still pending? Yes ☐ No ☐
    - a. If not pending, what was the decision on appeal? \_\_\_\_\_
  5. Was the previous lawsuit based upon the same or similar facts asserted in this lawsuit? Yes ☐ No ☒

If so, explain: \_\_\_\_\_

## II. Place of Present Confinement \_\_\_\_\_

If the place of present confinement is not the place you were confined when occurrence that is subject of instant lawsuit arose, also list the place you were confined: \_\_\_\_\_

## III. Exhaustion of Administrative Remedies

**CAUTION:** You are required by federal law to exhaust your available remedies on any action brought with respect to jail, prison, or other correctional facility conditions prior to bringing an action under 42 U.S.C. § 1983 or any other federal law. Once again, failure to provide complete and accurate answers to the questions set forth below will likely result in denial of the privilege of proceeding *in forma pauperis*. ATTACH COPIES OF ALL DOCUMENTS EVIDENCING EXHAUSTION OF REMEDIES.

- A. Is your place of confinement a facility operated by the Michigan Department of Corrections? Yes ☐ No ☐
- B. If your answer to A was yes, did you file a grievance concerning the facts set forth in this complaint? Yes ☐ No ☐
1. If your answer is no, explain why a grievance was not filed: \_\_\_\_\_

## COMPLAINT

2. If your answer is yes, list the grievance number(s) and the date listed as "Today's Date" box on the Prisoner/Corrections Client Grievance Form:

3. What was the decision upon your grievance at Step I?

Mark Refused to send his Grievance

- C. If your answers to A and B are yes, did you appeal the Step I decision? Yes ☐ No ☐

1. If your answer above was yes, what was the Step II decision?

Did you appeal to Step III? Yes ☐ No ☐

If your answer above was yes, what was the decision at Step III?

- D. Does your complaint concern a misconduct charge filed against you? Yes ☐ No ☒

1. Did you have an administrative hearing on the misconduct charge? Yes ☐ No ☐

If yes, what was the hearing officer's decision?

2. Did you request an administrative rehearing? Yes ☐ No ☐

If you did request an administrative rehearing, what was the decision rendered upon rehearing?

3. After rehearing, did you appeal the decision in one of the circuit courts for the State of Michigan? Yes ☐ No ☐

- a. If yes, what was the decision of the circuit court?

- b. Did you appeal the decision of the circuit court? Yes ☐ No ☐

If yes, state the decisions of the Michigan Court of Appeals and Michigan Supreme Court:

- E. If your claim concerns confinement within a facility not operated by the Michigan Department of Corrections, please state in detail the steps you have taken to exhaust your available state remedies prior to filing this lawsuit:

JUDGE OVERT AND OVERTON WILL SEE AND RECD THE PROSECUTION  
DIST. JUDGE AND MR. ALLEN REFUSED TO FOLLOW THEIR OWN RULES  
REGULATIONS OF PROCEDURES.

- F. If you have taken any other steps to exhaust your state remedies, please describe in detail what steps you have taken:

JUDGE WILL NOT GOING TO BELIEVE THE COURT'S CONDUCT. THEY  
SAY THEY DO WHAT THEY WANT, AND I CAN TELL ANYONE I WANT

## IV. Parties

In Item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

A. Name of Plaintiff

Charncey Phillips

Address

In Item B below, place the full name of the defendant in the first blank, his or her official position in the second blank and his or her place of employment in the third blank. Use Item C for the names, positions and place of employment of all additional defendants. Attach extra sheets as necessary. State whether you are suing each defendant in an official or personal capacity.

B. Defendant

Mike Duggan

is employed as

Det. Michigan Wayne

County Prosecutor

C. Additional Defendants

yes, Police Det.

## V. Statement of Claim

"Clear Cut" SEE RECORDS.

State here, as briefly as possible, the facts of your case. Describe how each defendant is personally involved. Include also, the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.

MICHIGAN'S PROSECUTION, THE REASON FOR THIS ACTION AGAINST PROSECUTOR MIKE DUGGAN #1 HE LEAD THE ACTION OF FALSE ACT OF A CHARGE TO DEFILE MY NAME AND WENT ON TO PUNISH ME FOR NO REASON ACCORDING TO HIS OWN RULES REGULATIONS OR PROCEDURES. #2 FACING LAW SUIT NOW ITS STILL THERE DO WHAT EVER THEY WANT AND ITS OUT COME, AT NO TIME DID I EVER AGREE TO OR SIGN FOR ANY. #3 LAW LIBRARY WAS THERE WITHOUT CAUSE, WAS NOT ALLOWED TO SPEAK AS THE COURT WENT ON TO COVER UP THEIR TRAIL, THESE ORDERS CAME FROM MIKE DUGGAN. AGAIN YOUR NOT GOING TO BELIEVE THE CONDUCT

Thank you.

## VI. Relief

State briefly and precisely what you want the court to do for you.

Federal Judge, PLEASE ASK THE COURT TO TRANSFER ALL DOCUMENTATION BASED ON A 1991 Ford Van. BECAUSE THE ELEMENTS TO FIT THE CHARGE WAS NEVER ADDRESS, ITS OWN WISH AND HOPED YOUR PROMISE TO UPHOLD THE LAW. I WAS THREW IN A CELL BECAUSE RECORDS SHOW THEY DO WHAT THEY WANT AS THEY STATED WANTS PRIVATE COUNSEL IT IS BEING ASK TO REC. COUNCIL ALSO WILL THE JUDGE FOR FEDERAL COURT MAKE "ONCE THE U.S. MARSHALLS ORDER TO SEVER THIS SUIT IN DEFENDANT FOR COUNSELMENT."

PLEASE 8/10/03  
Date

  
Signature of Plaintiff.

## NOTICE TO PLAINTIFF(S)

The failure of a *pro se* litigant to keep the court apprized of an address change may be considered cause for dismissal.

THANK YOU  
JUDGE,

03-73594  
 UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF MICHIGAN

Plaintiff  
 v.

AUTHORIZATION FOR WITHDRAWAL OF FUNDS  
 TO PAY THE CIVIL ACTION FILING FEE and  
 AFFIDAVIT OF INDIGENCE IN SUPPORT OF  
 REQUEST TO PROCEED *IN FORMA PAUPERIS*

Defendant(s)

MAGISTRATE JUDGE MORGAN 03 CV 0124

PATRICK J. DUGGAN

I, PATRICK J. DUGGAN, am the plaintiff in the above entitled case, and I believe I am entitled to redress. In support of my motion to proceed without being required to prepay fees or costs or give security, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefore. I acknowledge that I am liable for payment of the \$150.00 civil action filing fee, and I authorize the correctional facility in which I am currently housed to (1) provide information about my trust fund account to the federal court; and (2) withdraw from my trust fund account and forward to the federal court (a) an initial partial filing fee for this action (20% of the greater of my average monthly deposits or average monthly balance for the past 6 months), which I will request be disbursed, and (b) subsequent monthly payments (20% of my previous month's deposits), as ordered by the federal court, until I have paid the full filing fee of \$150.00 for this action. Further, I declare that the responses which I have made below are true.

Gordon J. Quist  
 U.S. District Judge

1. Are you presently employed? Yes ☐ No ☐

a. If the answer is yes, state the amount of your salary per month and give the name and address of your employer.

Hugh W. Brennenman, Jr.  
 U.S. Magistrate Judge

b. If the answer is no, state the date of last employment and the amount of the salary per month which you received.

2. Have you received, within the past twelve months, any money from any of the following sources?

- a. Business, profession, or form of self-employment?
- b. Rent payments, interest, or dividends?
- c. Pensions, annuities, or life insurance payments?
- d. Gifts or inheritances?
- e. Any other sources?

Yes ☐ No ☒  
 Yes ☐ No ☐  
 Yes ☐ No ☐  
 Yes ☐ No ☐  
 Yes ☐ No ☐

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash or do you have money in a checking or savings account?  
 (Include any funds in prison accounts)

Yes ☐ No ☒

If your answer is yes, state the total value owned.

SCANNED



4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? Yes ☐ No ☐

If the answer is yes, describe the property and state its approximate value. \_\_\_\_\_

5. List the persons who are dependent upon you for support; state your relationship to those persons; and indicate how much you contribute toward their support:

Motion  
Attached

I understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury.

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Plaintiff

**CERTIFICATE**

I certify that the plaintiff herein has had deposits of \_\_\_\_\_ and withdrawals of \_\_\_\_\_ from his prison account over the last six-month period. The present balance in the plaintiff's prison account is \_\_\_\_\_. I further certify that plaintiff has the following securities to his credit according to the records of this institution: \_\_\_\_\_

\_\_\_\_\_  
Authorized Financial Officer

\_\_\_\_\_  
Name of Institution

\_\_\_\_\_  
Date

NOTE: Instead of completing the above certificate, you may attach the certificate establishing prisoner account activity and the printout issued by the institution.

Federal Judge Copy

8/10/03.

To: Clerk Office, Lansing Mich.  
From: Gregory Simpson

"Motion to Wave Fees and Cost"

PLEASE, At this time I would say under  
the penalty of the law perjury, I do not  
have the Filing Fee, And would like to proceed  
in forma pauperis please,

PLEASE your time consideration will be  
helpful

For Clerk of  
Federal Judge.

When the action for a wrong doing  
is not quickly carried out, the hearts  
of the people are filled with schemes  
to do wrong.

Notary Public.

Date: 8/10/03.

To: FEDERAL COURT DISTRICT, LANSING MICHIGAN  
From: Conway Millers

That For location is a Low suit attached  
ARE 16 SHEETS, OPTION TO HAVE FEES AND COST AND SHEETS  
HAVE NO NOTARY SERVICE, BECAUSE JAIL REFUSED TO GIVE  
NOTARY SUIT AGAINST PROSECUTOR FOR WAYNE COUNTY.

Proof of Service, OFF to location  
8/10/03.

Notary Public

Refused

---

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

03-73594

PATRICK J. DUGGAN  
MAGISTRATE JUDGE MORGAN

CHAUNCEY PHILLIPS,

Plaintiff,

v.

MIKE DUGGAN,

Defendant.

ECase No. 5:03-cv-124

Honorable Gordon J. Quist

ORDER OF TRANSFERU.S. DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

2003 SEP 18 P 3:37

FILED

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983.

Plaintiff is presently incarcerated at the Wayne County Jail. Plaintiff sues Wayne County Prosecutor Mike Duggan. In his *pro se* complaint, Plaintiff vaguely alleges that Defendant Mike Duggan maliciously prosecuted him, denied him library access, and denied him the opportunity to speak during his legal proceedings. The events giving rise to Plaintiff's action occurred in Wayne County. Wayne County is within the geographical boundaries of the Eastern District of Michigan. 28 U.S.C. § 102(a).

Under the revised venue statute, venue in federal-question cases lies in the district in which any defendant resides or in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(b). Defendant is a public official serving in Wayne County, and he "resides" in that county for purposes of venue over a suit challenging official acts. See *Butterworth v. Hill*, 114 U.S. 128, 132 (1885); *O'Neill v. Battisti*, 472 F.2d 789, 791 (6th Cir. 1972), *cert. denied*, 411 U.S. 964 (1973). Plaintiff's allegations against Defendant arose in Wayne County, where Defendant allegedly committed the acts giving rise to this case. See *Leroy v. Great Western*

*United Corp.*, 443 U.S. 173, 185-87 (1979). In these circumstances, venue is proper only in the Eastern District. Therefore:

IT IS ORDERED that this case be transferred to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1406(a). **It is noted that this Court has not decided Plaintiff's motion to proceed *in forma pauperis*, nor has the Court reviewed Plaintiff's complaint under 28 U.S.C. §§ 1915(c)(2), 1915A, or under 42 U.S.C. § 1997e(c).** The Clerk shall transmit the file forthwith to the Clerk of the Court in Detroit.

IT IS SO ORDERED.

APPROVED FOR E-FILING:

Dated: September 8, 2003

/s/ Hugh W. Brenneman, Jr.  
Hugh W. Brenneman, Jr.  
United States Magistrate Judge

CERTIFIED  
ECF DOCUMENT

I hereby attest and certify that this is a printed copy of a document which was electronically filed with the United States District Court for the Western District of Michigan on 9-8-03

RONALD C. WESTON, SR., CLERK OF COURT

By: S. Cooper Dated: 9-8-03  
Deputy Clerk

## NEW PRISONER CASE

Case  
Caption: PHILLIPS v DUGGAN

Case  
No. 5:03cv-124

### CIVIL RIGHTS

☒ Appears to be an Eastern District case (to pro se law clerk)

☒ Three strikes (to pro se law clerk)

IFP:

☐ Able to pay \$150.00 fee; spendable balance: \_\_\_\_\_ (to magistrate judge)

☐ Has properly applied (to magistrate judge with draft order to proceed IFP)

☒ Is deficient (to magistrate judge with draft deficiency order)

Compliance with deficiency?

☐ Complied (to magistrate judge with draft order to proceed IFP)

☐ Noncompliance (to pro se law clerk)

Initial partial filing fee

☐ Has not paid the fee (to pro se law clerk)

☐ Has paid the fee (to pro se law clerk)

☐ Other: \_\_\_\_\_

### HABEAS CORPUS

☐ Has filed previous habeas action (to pro se law clerk)

☐ Appears to be an Eastern District case (to pro se law clerk)

IFP:

☐ Able to pay \$5.00 fee; spendable balance: \_\_\_\_\_ (to magistrate judge)

☐ Has properly applied (to magistrate judge with draft order to proceed IFP)

☐ Is deficient (to magistrate judge with draft order)

Compliance with deficiency?

☐ Complied (to magistrate judge with draft order to proceed IFP)

☐ Noncompliance (to pro se law clerk)

☐ Other: \_\_\_\_\_

From: L. Dack

Date: 9/3/03

**CASEREFERRED, PROSEPRESCREEN**

**United States District Court  
Western District of Michigan (Lansing)  
CIVIL DOCKET FOR CASE #: 5:03-cv-00124-GJQ-HWB  
Internal Use Only**

Phillips v. Duggan  
Assigned to: Judge Gordon J. Quist  
Referred to: Magistrate Judge Hugh W. Brenneman Jr.  
Demand: \$  
Lead Docket: None  
Related Cases: None  
Case in other court: None  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 08/28/03  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**plaintiff**  
-----

**Chauncey Phillips**

represented by **Chauncey Phillips**  
Wayne County Jail  
570 Clinton St.  
Detroit, MI 48226  
PRO SE

V.

**defendant**  
-----

**Mike Duggan, Wayne County  
Prosecutor for Det. Mich. (named as  
Mike Duggn on complaint)**

Filing Date	#	Docket Text
08/28/2003	<u>1</u>	COMPLAINT with magistrate referral against Mike Duggan filed by Chauncey Phillips (lkd) Modified on 9/3/2003 (lkd). (Entered: 09/02/2003)
08/28/2003	<u>2</u>	MOTION for leave to proceed in forma pauperis by plaintiff Chauncey Phillips ; (lkd, ) (Entered: 09/03/2003)
09/03/2003		***Notify Pro Se Department of possible action needed; deficiency/possible three strikes/possible Eastern District case (lkd, ) Modified on 9/3/2003 (lkd). (Entered: 09/03/2003)
09/03/2003		***PAPER CASE FILE sent to GR per chambers request; Case Manager will follow-up and make arrangements for service w/GR clerk's office (lkd) (Entered: 09/03/2003)
09/03/2003		***Proposed Order regarding deficiency prepared by Deputy Clerk and sent to Magistrate Judge Brenneman (lkd) (Entered: 09/03/2003)



UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**03-73594**

CHAUNCEY PHILLIPS,

Plaintiff,

v.

MIKE DUGGAN,

Defendant(s).

PATRICK J. DUGGAN

Case No. 5:03-cv-124

Honorable Gordon J. Quist

**MAGISTRATE JUDGE MORGAN**

**DEFICIENCY ORDER**  
**FOR A CIVIL ACTION**

This is a civil rights action filed by a plaintiff who is a prisoner. The filing fee for a civil action is \$150. Plaintiff has failed to pay the filing fee or to apply in the manner required by law to proceed in forma pauperis. Under the provisions of the Prison Litigation Reform Act of 1995, if a prisoner wishes to proceed in forma pauperis, the prisoner must file a certified copy of a prisoner trust account statement and an affidavit of indigence. 28 U.S.C. § 1915 (a)(2); McGore v. Wrigglesworth, 114 F.3d 601, 605 (6th Cir. 1997). Plaintiff has failed to file the required certified prisoner trust fund account statement in order to proceed in forma pauperis. Plaintiff is hereby notified of the foregoing deficiencies.

Plaintiff is informed that within 30 days from the date of this notice, he must submit the \$150.00 filing fee or, alternatively, file the required Prisoner Trust Fund Account. See McGore, 114 F.3d at 605. The affidavit must include a statement of all assets plaintiff possesses, a statement that plaintiff is unable to pay the fee or give security therefor, and a statement of the nature of the action. 28 U.S.C. §§ 1915(a)(1) and (2). Plaintiff must file either Form 4 from the Appendix of

Forms found in the Federal Rules of Appellate Procedure, or an affidavit containing the identical information requested in Form 4. McGore, 114 F.3d at 605. The trust account statement must be a certified copy and must be for the 6 months immediately preceding the filing of plaintiff's complaint. 28 U.S.C. § 1915(a)(2); McGore, 114 F.3d at 605.

Plaintiff is also notified that if plaintiff fails to pay the filing fee or to file the required documents as described above, the district court must presume that he is not proceeding in forma pauperis. McGore, 114 F.3d at 605. In that case, the district court must assess the entire filing fee and must order the case dismissed for want of prosecution. Id. If plaintiff's action is dismissed under these circumstances, it will not be reinstated even if plaintiff subsequently pays the filing fee. Id.

Dated: \_\_\_\_\_  
(lkd)

\_\_\_\_\_  
Hugh W. Brenneman, Jr.  
U.S. Magistrate Judge

**FILING FEES SHALL BE REMITTED TO THE FOLLOWING ADDRESS:**

Clerk, U.S. District Court  
399 Federal Building  
110 Michigan St., N.W.  
Grand Rapids, MI 49503

**All checks or other forms of payment shall be payable to "Clerk, U.S. District Court."**